

STATE OF INDIANA



INDIANAPOLIS 46204

INDIANA UTILITY REGULATORY COMMISSION
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William F. Canton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Implementation of the Local Competition
Provisions in the Telecommunications Act of 1996, CC Docket
No. 96-98

Dear Secretary Canton:

Enclosed are an original and sixteen copies of the comments of the Staff of the Indiana Utility Regulatory Commission in response to the Notice of Proposed Rulemaking in the above-captioned docket. Copies of the comments have also been mailed to the Common Carrier Bureau and the International Transcription Service as directed in the Notice.

Also, please find enclosed an additional copy and self-addressed return envelope, to be date-stamped received and returned.

If you have any questions, please call me at 317-232-2737.

Sincerely,

A handwritten signature in cursive script, reading "Robert C. Glazier".

Robert C. Glazier
Director of Utilities

Enclosures

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In The Matter of)
) FCC 96-182
)
Implementation of the Local Competition) Docket No. 96-98
Provisions in the Telecommunications Act)
of 1996)

COMMENTS OF THE
STAFF OF THE INDIANA UTILITY REGULATORY COMMISSION

INTRODUCTION

The Staff of the Indiana Utility Regulatory Commission ("IURC Staff") hereby submits its comments in response to the Federal Communications Commission ("FCC") Notice of Proposed Rulemaking ("Notice") issued on April 19, 1996.¹ The Notice indicates that the rulemaking was initiated to:

(1) define the roles of the North American Number Administration; (2) define the states role in numbering administration; (3) define additional functions for states in number administration; (4) define dialing parity; (5) define a implementation schedule for dialing parity per the requirements of the 1996 Act.²

These comments contain the IURC Staff responses to several of the Notice questions broken down by topic, including what we believe should be the state commissions' role in both numbering and

¹ In re the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket 96-98, Adopted April 19, 1996.

² Telecommunications Act of 1996.

dialing issues.

Number Administration

The FCC seeks comment on the number administration of the North American Numbering Plan (NANP), area code implementation, the delegation of existing numbering administration functions, and what additional number administration functions should be delegated. The FCC further seeks comment on what action it should take when a state commission is not working within the FCC's numbering administration guidelines.

Specifically, section 250(e)(1) of the Act requires the FCC to:

...create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis.

But further states:

Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction³

[emphasis added]

NANP ADMINISTRATION

The FCC seeks comment on the tentative conclusion that the

³ 1996 Telecommunications Act, sec. 101, §251(e)(1).

NANP Order⁴ satisfies the requirement of the Act to "designate one or more impartial entities" to administer the North American Numbering Plan.⁵

The IURC Staff believes that the creation of the North American Numbering Counsel (NANC) to select and oversee a neutral North American Numbering Plan (NANP) Administrator, which is a "single, non-government entity that is not closely identified with any particular industry segment," fulfills the FCC obligation under Section 250(e)(1) of the Act. We support the FCC decision to establish broad domestic policy and the ultimate resolution of numbering disputes. Placing the administration of our numbering resources in entities other than those directly connected to the telecommunications industry will only promote a competitive atmosphere.

AREA CODE IMPLEMENTATION

The FCC seeks comment on the tentative conclusion that it should delegate the implementation of new area codes to state commissions,⁶ subject to the guidelines enumerated in the Ameritech Order⁷.

The IURC Staff supports this tentative conclusion. The FCC

⁴ Administration of the North American Numbering Plan, CC Docket No. 92-237, Report and Order, FCC 95-283 (NANP Order), adopted July 13, 1995, § V., ¶ 47.

⁵ In the matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, Adopted April 19, 1996, ¶ 252, at 93 (Interconnection Order).

⁶ Interconnection Order ¶ 256.

⁷ FCC 95-19, IAD File No. 94-102, Declaratory Ruling and Order, adopted January 12, 1995; Proposed 708 Relief Plan and 630 Numbering Plan Code by Ameritech - Illinois.

has acknowledged in the Ameritech Order that state commissions have a role and certain interest in regulating numbering resources.

Thus we recognized that the states have a role and certain interest in regulating numbering resources. For Example, NARUC noted in a Resolution adopted in November, 1994 that "NPA overlays, boundary realignments and splits may involve many state specific variations in local dialing patterns that may be responsive to local geographic circumstances or local customer expectations....[and that] State commissions are uniquely positioned to understand, judge and determine [those] local circumstances and customer expectations..."⁸

We conclude this discussion of jurisdiction, however, by reinstating our recognition that state regulators clearly have legitimate interests in the administration of the NANP. We would expect that they continue to exercise regulatory supervision over the NANP as it affects intrastate telecommunications just as we intend to continue exercising our regulatory authority to resolve NANP issues clearly of interstate concern.⁹

The IURC Staff believes that state commissions are in a unique position to determine local circumstances. Delegating the area code relief planning and implementation will allow the state commissions to conduct industry meetings and obtain local government and public input into the planning process. State commissions can hold workshops that would:

1. Allow for determination of type of relief plan, (split or

⁸ Ibid, at ¶ 10.

⁹ Ibid, at ¶ 14.

overlay), and the boundary line to be determined using direct input and consensus.

2. Allow for discrimination concerns to be addressed during the planning process with the direct input of those effected.

3. Allow for local concerns to be addressed directly to those effected.

4. Allow for justification of the proposed relief plan to be addressed directly to those effected.

We further believe this process will prove to be efficient and beneficial to those who will be effected.

GUIDELINES

The FCC seeks comment on what action should be taken when a state appears to be acting inconsistently with its numbering guidelines.¹⁰

The IURC Staff support the FCC's proposal of leaving to the state commissions decisions related to the implementation of new area codes subject to the guidelines enumerated in the Ameritech Order¹¹. We recommend that the states use the ICCF¹² NPA relief planning guidelines in conjunction with the findings in the Ameritech Order until such time that guidance can be provided by the FCC or the NANC. We also believe that, if it appears that a relief plan is not following these guidelines or if a dispute arises and it cannot be resolved at the state level, the NANC should conduct initial dispute resolution of all issues. We further believe that if the NANC is unsuccessful then the FCC

¹⁰ Interconnection Order ¶ 257.

¹¹ Interconnection Order ¶ 257.

¹² Industry Carriers Compatibility Forum NPA Allocation Plan and Assignment Guidelines dated November 16, 1995.

should be the final arbitrator.¹³

EXISTING RESPONSIBILITIES

The FCC seeks comment on the tentative conclusion that it should delegate to Bellcore, the LECs, and the states the authority to continue performing each of their functions related to the administration of numbers as they existed prior to the enactment of the 1996 Act, until such time functions are transferred to the new NANP administrator pursuant to the NANP Order.¹⁴

The IURC Staff supports the tentative conclusion that Bellcore and the state commissions should continue in their numbering administration roles as they existed prior the 1996 Act, and we believe that the FCC should continue its role in dispute resolution. We do however, recommend that area code planning and implementation be removed from the responsibility of the LECs. We believe that the 1996 Telecommunications Act is pro-competitive, and delegating the planning and implementation process to state commissions will allow a more competitive spirit among the industry. State commissions will need to be able to receive periodic reports from the present LEC administrator as well as Bellcore on projected exhaust dates for area codes. These periodic reports will allow the states ample time to plan for area code relief, dispute resolution, and implementation before an area code goes into a jeopardy situation.¹⁵

¹³ Administration of the North American Numbering Plan, CC Docket No. 92-237, Report and Order, FCC 95-283 (NANP Order), adopted July 13, 1995, § V., ¶ 117.

¹⁴ Interconnection Order ¶ 258.

¹⁵ ICCF NPA Code Relief Planning Guidelines, dated 12/16/94. Page 11 of 13, Glossary: Jeopardy NPA, A jeopardy condition exists when the forecasted and/or actual demand for NXX resources will exceed the known supply during the planning/implementation interval relief.

ADDITIONAL FUNCTIONS

The FCC seeks comment on whether it should delegate any additional number administration functions to the states or other entities.¹⁶

The IURC Staff believes that dialing patterns go hand-in-hand with area code implementation. Once an area code is changed for an area, how an individual makes a local call can also change. We believe that the states are in a better position to determine what impact changes in dialing will have on the local area. We can see in the Bellcore annual status report on the Numbering Plan Area Codes,¹⁷ that states have adopted different dialing patterns throughout the United States depending on local circumstances. We recommend that state commissions be delegated the decision making ability to implement or change dialing patterns consistent with non-discriminatory and competitive guidelines, and that changes in dialing patterns should be incorporated into the area code relief planning process.

DIALING PARITY

The FCC seeks comments on section 251 (b)(3) of the Telecommunications Act of 1996 that requires LECs "to provide dialing parity to competing providers of telephone exchange service and telephone toll service".¹⁸

The IURC Staff supports dialing parity in principle. The dialing of extra digits for a service could be considered by a

¹⁶ Interconnection Order ¶ 258.

¹⁷ Bellcore Informational Letter, Number IL-96/01-016, North American Numbering Plan Area Codes - 1996 update.

¹⁸ Interconnection Order ¶ 258.

customer as an inconvenience which could make a customer reluctant to change providers. We have seen this issue brought forth in area code relief plans. For example, when a voice mail provider was required to have its customers dial four digits more than a competitor in an area code relief proposal.¹⁹ We believe that any requirement for dialing extra digits would place a competitor at a disadvantage and impede competition.

Concerning all Telecommunications Services

The FCC seeks comment on the tentative conclusion that section 251(b)(3) creates a duty to provide dialing parity with respect to all telecommunications services.²⁰

The IURC Staff supports the FCC's tentative conclusion that the duty to provide dialing parity should include intrastate, interstate, and international as well as local dialing. We believe that all services that require dialing should be included when implementing the Act. No telecommunications provider should be able to offer dialing less digits for a service than a competitor.

Categories for Presubscription

The FCC seeks comment as to what categories of long distance traffic (e.g. intrastate, interstate, and international traffic) for which a customer should be entitled to choose presubscribed carriers, and whether a uniform, nationwide methodology is necessary.²¹

¹⁹ Comments to the FCC by Paging Network, Inc., In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois, dated September 16, 1994, § II.A. at 5.

²⁰ Interconnection Order ¶ 206.

²¹ Interconnection Order ¶ 210.

The IURC Staff supports resubscription for all telecommunication services that require dialing. While we recognize that certain technical limitations may currently exist, we believe that when and where technically feasible a customer should be able to choose any provider for any of these types of calls.

State Commissions and Implementation

The FCC seeks comment on what difficulties state commissions might experience in implementing the dialing parity requirements of the 1996 Act.²²

The IURC Staff assumes that one of the main issues would be determining when existing switches, if incapable of providing dialing parity, would be upgraded and how to recover the costs involved in upgrading. We believe that these two concerns will need to be addressed on a local level with input from the industry on whether upgrades to existing switches are technically feasible and if so, in what timeframe. Also, if it is not technically feasible (i.e. a step by step switch), a determination will need to be made for scheduling switch replacement. For example, a small Indiana telco recently received a request to provide equal access from an interexchange carrier. The small telco found that it was not technically feasible, at the time of the request to provide dialing parity because the software needed was not available. Also, it was costly for the LEC for the number of rural customers involved. It is important that the FCC understand the example given about small telco problems with dialing parity are common and very state specific.

We do recommend that states be delegated the responsibility of implementing the dialing parity requirement. State commissions are in a far better position to determine the technology that is

²² Interconnection Order ¶ 210.

currently utilized in its area, what areas (due to local competition) will need to be implemented first, and determine what cost recovery mechanism should be used.

Local Telephone Calls

The FCC seeks comment on the tentative conclusion that customers of competitive service providers are not required to dial additional access codes or personnel identification numbers in order to make local telephone calls.²³

The IURC Staff supports this tentative conclusion. We believe a competitive provider will be at a disadvantage if its customer are required to dial extra digits for local calls.

Local Implementation

The FCC seeks comment on how the local dialing parity requirement should be implemented.²⁴

The IURC Staff believes that this dialing parity requirement should be implemented at the state level. State commissions are in a better position to determine what technology is presently being used in their areas when determining implementation and cost recovery mechanisms.

Implementation Schedule

The FCC seeks comment on what implementation schedule should be adopted for dialing parity obligations for all LECs.²⁵

²³ Interconnection Order ¶ 211.

²⁴ Interconnection Order ¶ 211.

²⁵ Interconnection Order ¶ 212.

The IURC Staff recommends that the requirement for implementing the dialing parity requirement for all LECs with the exception of the BOCs, should be delegated to the state commissions. Since the BOCs have a time line established in section 271(e)(2)(A) and 271(e)(2)(B) of the act and the other LECs do not, we believe that the state commissions will be in the best position to determine when a LEC should be required to implement dialing parity. We believe that if a LEC is required to implement dialing parity by a state commission, on its own motion, or because of a request from a competitor, that the states will be in a better position to obtain the necessary technical and financial information to apply a feasible implementation schedule and determine the cost recovery mechanism. Also, state commissions will determine which, if any, small rural telcos should be temporarily exempted from the dialing parity requirement.

Cost Recovery

The FCC seeks comment on what, if any, standard should be used for arbitration to determine the dialing parity implementation costs that LECs should be permitted to recover, and how those costs should be recovered.²⁶

The IURC Staff believes that the determination of cost recovery should left to the states. As mentioned before, the state commissions are in a better position to determine what cost recovery mechanisms should be employed for each LEC's circumstance.

CONCLUSION

Any time area code relief is needed there is an impact to the industry, public, and local government. There is the inconvenience

²⁶ Interconnection Order ¶ 219.


of notifying business clients, friends, and family. There are costs involved in the telecommunications industry, business, government, and for the public just to name a few. The state regulatory commissions are in much a better position to obtain as much information as possible to make a determination on area code relief and changes in dialing as it will affect their state.

The IURC Staff recommends that the state commissions be delegated area code planning and implementation subject to the guidelines enumerated in the Ameritech Order. We further recommend that the states be delegated the additional number administration responsibility in determining the dialing patterns and the implementation process for dialing parity that best fit that states' local circumstances.

IN THE MATTER OF
IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS
IN THE TELECOMMUNICATIONS ACT OF 1996
CC DOCKET NO. 96-98

Indiana Utility Regulatory Commission
Indiana Government Center South
302 West Washington, Suite E306
Indianapolis, Indiana 46204

Respectfully Submitted:



Robert C. Glazier
Director of Utilities